

§ 249.2 Application.

(a) *Jurisdiction.* An application by an alien who has been served with an order to show cause or warrant of arrest shall be considered only in proceedings under part 242 of this chapter. In any other case, an alien who believes he or she meets the eligibility requirements of section 249 of the Act shall apply to the district director having jurisdiction over his or her place of residence. The application shall be made on Form I-485 and shall be accompanied by Form G-325A, which shall be considered part of the application. The application shall also be accompanied by documentary evidence establishing continuous residence in the United States since prior to January 1, 1972, or since entry and prior to July 1, 1924. All documents must be submitted in accordance with § 103.2(b) of this chapter. Documentary evidence may include any records of official or personal transactions or recordings of events occurring during the period of claimed residence. Affidavits of credible witnesses may also be accepted. Persons unemployed and unable to furnish evidence in their own names may furnish evidence in the names of parents or other persons with whom they have been living, if affidavits of the parents or other persons are submitted attesting to the residence. The numerical limitations of sections 201 and 202 of the Act shall not apply.

(b) *Decision.* The applicant shall be notified of the decision and, if the application is denied, of the reasons therefor. If the application is granted, a Form I-551, showing that the applicant has acquired the status of an alien lawfully admitted for permanent residence, shall not be issued until the applicant surrenders any other document in his or her possession evidencing compliance with the alien registration requirements of former or existing law. No appeal shall lie from the denial of an application by the district director, but such denial shall be without prejudice to the alien's right to renew the application in proceedings under part 242 of this chapter.

[52 FR 6322, Mar. 3, 1987]

§ 249.3 Reopening and reconsideration.

An applicant who alleged entry and residence since prior to July 1, 1924, but in whose case a record was created as of the date of approval of the application because evidence of continuous residence prior to July 1, 1924, was not submitted, may have his case reopened and reconsidered pursuant to § 103.5 of this chapter. Upon the submission of satisfactory evidence, a record of admission as of the date of alleged entry may be created.

[29 FR 11494, Aug. 11, 1964]

PART 250—REMOVAL OF ALIENS WHO HAVE FALLEN INTO DISTRESS

Sec.

250.1 Application.

250.2 Removal authorization.

AUTHORITY: Secs. 103, 250, 66 Stat. 173, 219; 8 U.S.C. 1103, 1260.

§ 250.1 Application.

Application for removal shall be made on Form I-243. No appeal shall lie from the decision of the district director.

[22 FR 9802, Dec. 6, 1957]

§ 250.2 Removal authorization.

If the district director grants the application he shall issue an authorization for the alien's removal on Form I-202. Upon issuance of the authorization, or as soon thereafter as practicable, the alien may be removed from the United States at government expense.

[22 FR 9802, Dec. 6, 1957]

PART 251—ARRIVAL MANIFESTS AND LISTS: SUPPORTING DOCUMENTS

Sec.

251.1 Arrival manifests and lists.

251.2 Notification of illegal landings.

251.3 Departure manifests and lists for vessels.

251.4 Departure manifests and lists for aircraft.

251.5 Exemptions for private vessels and aircraft.

AUTHORITY: 8 U.S.C. 1103, 1182, 1221, 1281, 1282.

§ 251.1 Arrival manifests and lists.

(a) *Vessels*—(1) *General*. The master or agent of every vessel arriving in the United States from a foreign place or an outlying possession of the United States shall present to the immigration officer at the port where the immigration inspection is performed a manifest of all crewmen on board on Form I-418, Passenger List-Crew List, in accordance with the instructions contained thereon.

(2) *Longshore work notations*. The master of the vessel or his or her agent shall indicate in writing immediately below the name of the last alien listed on the Form I-418 whether or not D crewmen aboard the vessel will be used to perform longshore work at any United States port before the vessel departs the United States.

(i) If no longshore work will be performed, no further notation regarding longshore work is required.

(ii) If longshore work will be performed, the master or agent shall note which exception listed in section 258 of the Act permits the work. The exceptions are:

(A) The hazardous cargo exception;

(B) The prevailing practice exception in accordance with a port's collective bargaining agreements;

(C) The prevailing practice exception at a port where there is no collective bargaining agreement, but for which the vessel files an attestation;

(D) The prevailing practice exception for automated vessels; and

(E) The reciprocity exception.

(iii) If longshore work will be performed under the hazardous cargo exception, the vessel must either be a tanker or be transporting dry bulk cargo that qualifies as hazardous. All tankers qualify for the hazardous cargo exception, except for a tanker that has been gas-freed to load non-hazardous dry bulk commodities.

(A) To invoke the exception for tankers, the master or agent shall note on the manifest that the vessel is a qualifying tanker.

(B) If the vessel is transporting dry bulk hazardous cargo, the master or agent shall note on the manifest that

the vessel's dry bulk cargo is hazardous and shall show the immigration officer the dangerous cargo manifest which is signed by the master or an authorized representative of the owner, and which under 46 CFR 148.02 must be kept in a conspicuous place near the bridge house.

(iv) If longshore work will be performed under the prevailing practice exception, the master or agent shall note on the manifest each port at which longshore work will be performed under this exception. Additionally, for each port the master or agent shall note either that:

(A) The practice of nonimmigrant crewmen doing longshore work is in accordance with all collective bargaining agreements covering 30 percent or more of the longshore workers in the port;

(B) The port has no collective bargaining agreement covering 30 percent or more of the longshore workers in the port and an attestation has been filed with the Secretary of Labor;

(C) An attestation that was previously filed is still valid and the vessel continues to comply with the conditions stated in that attestation; or

(D) The longshore work consists of operating an automated, self-unloading conveyor belt or a vacuum-actuated system.

(v) If longshore work will be performed under the reciprocity exception, the master or agent shall note on the manifest that the work will be done under the reciprocity exception, and will note the nationality of the vessel's registry and the nationality or nationalities of the holders of a majority of the ownership interest in the vessel.

(vi) *Notations for Great Lakes vessels*.

(A) A manifest shall not be required for a vessel of United States, Canadian, or British registry engaged solely in traffic on the Great Lakes or the St. Lawrence River and connecting waterways, herein designated as a Great Lakes vessel, unless nonimmigrant crewmen intend to do longshore work at a port in the United States.

(B) If nonimmigrant crewmen will do longshore work, the master or agent of the vessel shall note on the manifest which exception in section 258 of the

Act permits the work and any other notations described in paragraphs (a)(2)(ii) through (a)(2)(v) of this section required by the exception invoked.

(C) A manifest shall be required for crewmen of other than United States, Canadian, or British citizenship and shall contain the same information regarding longshore work as is required of other vessels.

(D) After submission of a manifest on the first voyage of a calendar year, a manifest shall not be required on subsequent arrivals unless a non-immigrant crewman of other than Canadian or British citizenship is employed on the vessel who was not aboard and listed on the last prior manifest, or a change has occurred regarding the performance of longshore work in the United States by non-immigrant crewmen, or a change has occurred in the exception that the master or agent of the vessel wishes to invoke which was not noted on the last prior manifest.

(3) The master or agent of a vessel that only bunkers at a United States port pursuant to 8 CFR 235.1(d)(7) shall annotate Form I-418 to indicate the time, date, and place of bunkering.

(4) If documentation is required to support an exception, as described in 8 CFR 258.2, it must accompany the manifest.

(b) *Aircraft.* The captain or agent of every aircraft arriving in the United States from a foreign place or from an outlying possession of the United States, except an aircraft arriving in the United States directly from Canada on a flight originating in that country, shall present to the immigration officer at the port where the inspection is performed a manifest on the Bureau of Customs Form 7507 or on the International Civil Aviation Organization's General Declaration of all the alien crewmembers on board, including alien crewmembers who are returning to the United States after taking an aircraft of the same line from the United States to a foreign place or alien crewmembers who are entering the United States as passengers solely for the purpose of taking an aircraft of the same line from the United States to a foreign port. The captain or agent of an aircraft that only refuels at the United

States port pursuant to § 235.1(d)(7) of this part must annotate the manifest to indicate the time, date and place of refueling. The surname, given name, and middle initial of each alien crewman listed also shall be shown on the manifest. In addition, the captain or agent of the aircraft shall indicate in writing immediately below the name of the last alien listed on the Form or Declaration, the number of United States citizen crewmen on board, if any. If there are no alien crewmen aboard, the captain or agent shall indicate in writing on the Form or Declaration the number of United States citizen crewmen, followed by a statement that there are no alien crewmen.

(c) *Additional documents.* The master, captain, or agent shall prepare as a part of the manifest, when one is required for presentation to an immigration officer, a completely executed set of Forms I-95 for each alien crewman on board, except: (1) An alien immigrant crewman in possession of a valid immigrant visa, reentry permit, or alien registration receipt card on or I-551;

(2) a Canadian or British citizen crewman serving on a vessel plying solely between Canada and the United States; or

(3) a crewman seeking conditional landing privileges under section 252(a)(1) of the Act who is in possession of an unutilized alien crewman landing permit and identification card (Form I-184) or an unutilized conditional landing permit (Form I-95) with space for additional endorsements previously issued to him or her as a member of the crew of the same vessel or an aircraft of the same line on his or her last prior arrival in the United States, following which he or she departed from the United States as a member of the crew of the same vessel or an aircraft of the same line.

(d) *Immigration officer notations on arrival manifests.* (1) Upon completion of the examination of each crewman listed on the Form I-418 presented by the master or agent of an arriving vessel, the immigration officer shall place one of the following symbols in column (5) of the Form I-418 opposite the name of the crewman: "USC" for a crewman admitted as a United States citizen;

“RP” or “ARC” to indicate respectively the presentation of a reentry permit or an alien registration receipt card, Form I-151 or I-551, for a crewman admitted as a lawful permanent resident; “D-1” for an alien crewman granted a conditional landing permit under section 252(a)(1) of the Act; “D-2” for an alien crewman granted a conditional landing permit under section 252(a)(2) of the Act; “Parolee” for an alien crewman paroled pursuant to section 212(d)(5) of the Act; and “Refused” for a nonimmigrant crewman whose request for a landing permit has been refused.

(2) The immigration officer shall note on the Form I-410, Receipt for Crew List, whether or not nonimmigrant crewmen will perform longshore work in the United States, and if so:

- (i) Under which exception in section 258 of the Act it will be performed; and
- (ii) What type of documentation accompanied the manifest to support the exception invoked.

(3) The examining immigration officer shall sign his or her name, title, and the date of the inspection following the last entry on the Form I-418. The master of the vessel shall be furnished Form I-410 as a receipt for the Form I-418 arrival manifest, and the immigration officer shall list on the Form I-410 both the information regarding longshore work described in 8 CFR 251.1(a)(2) and the names of all crewmen who have been refused conditional landing permits.

[30 FR 6777, May 19, 1965, as amended at 32 FR 9632, July 4, 1967; 34 FR 12560, Aug. 1, 1969; 34 FR 19799, Dec. 18, 1969; 45 FR 32658, May 19, 1980; 46 FR 43827, Sept. 1, 1981; 56 FR 26017, June 6, 1991; 57 FR 40833, Sept. 8, 1992; 58 FR 48779, Sept. 20, 1993]

§ 251.2 Notification of illegal landings.

As soon as discovered, the master or agent of any vessel from which an alien crewman has illegally landed or deserted in the United States shall inform the immigration officer in charge of the port where the illegal landing or desertion occurred, in writing, of the name, nationality, passport number and, if known, the personal description, circumstances and time of such illegal landing or desertion of such alien crew-

man, and furnish any other information and documents which might aid in his apprehension, including any passport surrendered pursuant to § 252.1(d) of this chapter. Failure to file notice of illegal landing or desertion and to furnish any surrendered passport within 24 hours of the time of such landing or desertion becomes known shall be regarded as lack of compliance with section 251(d) of the Act.

[28 FR 209, Jan. 9, 1963]

§ 251.3 Departure manifests and lists for vessels.

(a) *Form I-418, Crew List.* The master or agent of every vessel departing from the United States shall submit to the immigration officer at the port from which such vessel is to depart directly to some foreign place or outlying possession of the United States, except when a manifest is not required pursuant to § 251.1(a), a single Form I-418, Crew List, completed in accordance with the instructions contained herein. Every item in the heading of the Form I-418 must be completed and the following endorsement shall be placed on the first line of the form: “Arrival Crew List, Form I-418, filed at (show United States port of entry).” Submission of a Form I-418 which lacks that endorsement or which lacks other essential information shall be regarded as lack of compliance with section 251(c) of the Act.

(b) *Added crewmen.* Under a heading “Added Crewmen,” list the names of all nonresident alien crewmen who were not members of the crew and manifested on Form I-418 as such on the occasion of the vessel’s last arrival in the United States and attach for each name on the list the Form I-95 or Form I-94 given to the alien crewman when he last arrived in the United States. If that form is unavailable, a new Form I-95 shall be prepared and attached to the Form I-418.

(c) *Separated crewman.* Under a heading “Separated Crewmen,” list the names of all alien crewmen, other than alien permanent residents of the United States, who were listed on the arrival Form I-418, as members of the crew on the occasion of the vessel’s last arrival in the United States but who for any reason are not departing with the

vessel, and for each such separated crewman show his nationality, passport number, specific port and date of separation, and the reasons for failure to depart. If an application to pay off or discharge an alien crewman has been granted subsequent to the vessel's arrival, the triplicate copy of the relating Form I-408 shall be attached to the Form I-418. The list required by paragraph (b) of this section and this paragraph may be incorporated in a single Form I-418, if space permits. The required lists need not be submitted for Canadian or British citizen crewmen of Great Lakes vessels.

(d) *No changes in crew.* When there are no added and separated crewmen as described in this section, the Form I-418 shall be endorsed with the notation "No changes in nonresident alien crew upon departure."

[30 FR 6777, May 19, 1965, as amended at 33 FR 17137, Nov. 19, 1968]

§251.4 Departure manifests and lists for aircraft.

(a) *Bureau of Customs Form 7507 or International Civil Aviation Organization's General Declaration.* The captain or agent of every aircraft departing from the United States for a foreign place or an outlying possession of the United States, except an aircraft departing from the United States directly to Canada on a flight terminating in that country, shall submit to the immigration officer at the port from which such aircraft is to depart on the Bureau of Customs Form 7507 or on the International Civil Aviation Organization's General Declaration a list of all alien crewmen on board, including alien crewmen who arrived in the United States as crewmen on an aircraft of the same line and who are departing as passengers. The surname, given name, and middle initial of each such alien crewman listed shall be shown. In addition, the captain or agent of the aircraft shall indicate in writing immediately below the name of the last alien listed on such form or declaration, the number of U.S. citizen crewmen on board, if any. If there are no alien crewmen aboard, the captain or agent shall indicate in writing on the form or declaration the number of U.S.

citizen crewmen, followed by a statement that there are no alien crewmen.

(b) *Notification of changes in employment for aircraft.* The agent of the air transportation line shall immediately notify in writing the nearest immigration office of the termination of employment in the United States of each alien employee of the line furnishing the name, birthdate, birthplace, nationality, passport number, and other available information concerning such alien. The procedure to follow in obtaining permission to pay off or discharge an alien crewman in the United States after initial immigration inspection, other than an alien lawfully admitted for permanent residence, is set forth in §252.1(h) of this chapter.

[30 FR 6777, May 19, 1965, as amended at 33 FR 17137, Nov. 19, 1968; 34 FR 12561, Aug. 1, 1969]

§251.5 Exemptions for private vessels and aircraft.

The provisions of this part relating to submission of arrival and departure manifests and lists shall not apply to a private vessel or a private aircraft not engaged directly or indirectly in the carriage of persons or cargo for hire.

[32 FR 9632, July 4, 1967]

PART 252—LANDING OF ALIEN CREWMEN

Sec.

252.1 Examination of crewmen.

252.2 Revocation of conditional landing permits; deportation.

252.3 Great Lakes vessels and tugboats arriving in the United States from Canada; special procedures.

252.4 Permanent landing permit and identification card.

252.5 Special procedures for deserters from Spanish or Greek ships of war.

AUTHORITY: 8 U.S.C. 1103, 1184, 1258, 1281, 1282.

§252.1 Examination of crewmen.

(a) *Detention prior to examination.* All persons employed in any capacity on board any vessel or aircraft arriving in the United States shall be detained on board the vessel or at the airport of arrival by the master or agent of such vessel or aircraft until admitted or